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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,940	02/10/2004	Toerless Eckert	112025-0821	4233
24267 7590 10/30/2008 CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210				
EXAMINER				
POLLACK, MELVIN H				
ART UNIT		PAPER NUMBER		
2445				
MAIL DATE		DELIVERY MODE		
10/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/776,940

Applicant(s)

ECKERT, TOERLESS

Examiner

MELVIN H. POLLACK

Art Unit

2445

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-28 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Individual Patent Application
6) ☒ Other: see attached office action

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 July 2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

3. The original art rejection has been withdrawn solely due to the discovery of art that is closer on-point. The examiner does not concede that Yoneda and Bou-Diab has been amended around and reserves the right to re-raise this rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (2004/0100983) in view of Watanuki et al. (6,853,639).

6. For claims 1, 8, 15, and 22, Suzuki teaches a method and system (abstract) for providing request compatibility in a multicast system (Paras. 1-41 and 88), said method comprising:

- a. Receiving (Paras. 42-44), by a translator coupled between a group of receivers and a router (Paras. 80-81), requests for traffic from said group of receivers (Para. 47);
 - b. determining, by said switch, whether said traffic requests contain incompatible request types (Para. 62);
 - c. if incompatible request types exist (Paras. 63-66), then separating said traffic requests into at least two groups based on type (Paras. 49-60); and
 - d. sending requests of different types to said router from different addresses of the translator (Paras. 63-67), to present an appearance to said router that the requests of different types are from different hosts (Paras. 75-77).
7. Suzuki does not expressly disclose that the translator is a layer 2 switch. Watanuki teaches a method and system (abstract) of performing request compatability in a multicast system (col. 1, line 1 – col. 5, line 55; col. 15, line 40 – col. 16, line 45) wherein an L2 switch is interposed between the router and a receiver (col. 5, line 55 – col. 6, line 40) to perform differentiation (col. 6, line 65 - col. 7, line 15) and conversion (col. 7, lines 15-40; col. 7, line 55 – col. 8, line 60) by address manipulation (col. 9, lines 5-65). At the time the invention was made, one of ordinary skill in the art would have added Watanuki to Suzuki, both of the same assignee, in order to improve Suzuki's goal (Suzuki, Paras. 15-17) of decreasing traffic (Watanuki, col. 2, lines 1-15).
8. For claims 2, 9, 16, and 23, Suzuki teaches that said incompatible request types include a single-source request and an any-source request (Para. 42).
9. For claims 3, 10, 17, and 24, Suzuki teaches that said single-source request comprises an IGMP v3 request (Para. 49).

10. For claims 4, 11, 18, and 25, Suzuki teaches that said any-source request comprises an IGMP v2 request (Para. 49).
11. For claims 5, 12, 19, and 26, Suzuki teaches that said incompatible request types include an include request (join) and an exclude request (leave) (Para. 58).
12. For claims 6, 13, 20, and 27, Suzuki does not expressly disclose the usage of MAC addresses. Watanuki teaches that said act of sending requests of different types to said router from different addresses further comprises creating a first host identity located at a first MAC address and creating a second host identity located at a second MAC address (col. 9, line 25 – col. 12, line 5).
13. For claims 7, 14, 21, and 28, Suzuki does not expressly disclose the usage of MAC addresses. Watanuki teaches that sending requests of a first type from said first host identity located at said first MAC address, and sending requests of a second type from said second identity located at said second MAC address (col. 6, line 65 – col. 8, line 15).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They regard further teachings on multicasting conversion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELVIN H. POLLACK whose telephone number is (571)272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melvin H Pollack/
Examiner, Art Unit 2445
23 October 2008